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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/540,189	11/23/2005	Jiawen Tu	CN020025	8266
24737 7590 02/24/2009 PHILIPS INTELLECTUAL PROPERTY & STANDARDS P.O. BOX 3001 BRIARCLIFF MANOR, NY 10510				
EXAMINER				
HO, BAO QUAN T				
ART UNIT		PAPER NUMBER		
2629				
MAIL DATE		DELIVERY MODE		
02/24/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/540,189

Applicant(s)

TU ET AL.

Examiner

BAO-QUAN T. HO

Art Unit

2629

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 04 February 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 15-28.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/Chanh Nguyen/
Supervisory Patent Examiner, Art Unit 2629

/Bao-Quan T Ho/
Examiner, Art Unit 2629

Continuation of 11, does NOT place the application in condition for allowance because: On page 11 of first paragraph, Applicant argues "Glynn recites a threshold level for 'motion signals [emphasis added]', he clearly intends a combination of signals in various dimensions, as the types of errors noted above cannot be detected by threshold comparison of motion data of one axis alone." As Applicant stated, the motion signals is a combination of various dimensions, which are the x, y, and z dimensions. The claim does not recited the computer to determine only one axis alone.

Claim 15 recites "... upon determining the motion data on the third axis is greater than the first predetermined value." As the Glynn reference and applicant's statement above, the motion signals factors a "combination of signals in various dimensions" as quoted from the Applicant. The various dimensions are the movements of the mouse 1 (Col. 7 lines 44-46), wherein mouse 1 can move/detect in the x, y, and z axis.

On page 12 of first paragraph, Applicant argues "Glynn not only lacks the feature of claim 15 where detected z-dimension motion acts as a trigger, but in fact teaches away from it (no trigger is required)." Examiner disagrees, Glynn teaches using the threshold level to prevent the mouse 1 from acting on false movements.

Also another note, Applicant as stated on page 11, "The current Office Action's response to this argument includes the statement 'the claim [claim 15] does not limit to only [emphasis in original] a single axis threshold, as the applicant stated' (at page 6, 3rd full paragraph). It is unclear what is intended by this statement." The claimed invention in claim 15 does not state to detect one axis alone; therefore a combination of motion signals detected may read on the present limitation. As Applicant explains claim 15 on page 9 stating, "the corresponding computer cursor movement occurs only if 'the motion data on the third axis is greater than a first predetermined value' (claim 15, lines 9-10)" (Emphasis added by Examiner). The arguments is not supported by what is claimed in claim 15.

Independent claims 19, 22 and 26 contains similar features, therefore the response to arguments is the same for each claim.